## REMARKS

Before entry of this Amendment and Response, the status of the application according to the pending Office action is as follows:

- Claims 3 and 5 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.
- Claims 1-14, 18-20, 22-28, 30-32, and 34-35 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 1,717,183 to Brenner (hereinafter "Brenner").
- Claims 1-14, 18-20, 22-28, 30-32, and 34-35 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,082,309 to Turiansky (hereinafter "Turiansky").
- Claims 1-13, 18-20, 22-28, 30-32, and 34-35 are rejected under 35 U.S.C. § 102(b) as being anticipated by German Patent No. DE 9208875.9 to Hsing (hereinafter "Hsing").
- Claims 1-13 and 18-35 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,871,420 to Shikhashvili (hereinafter "Shikhashvili").
- Claims 7 and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over any of Shikhashvili, Hsing, Turiansky, or Brenner.
- Claims 21 and 29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the references Hsing or Turiansky or Brenner as applied to claims 20 and 28 above, and further in view of U.S. Patent No. 1,974,456 to Goldzweig (hereinafter "Goldzweig").

Applicants hereby amend claims 1, 22, and 32, without prejudice, as shown in the preceding Listing of Claims. Support for these amendments may be found in the specification as

filed, and at least in paragraphs **[0019]**, **[0020]**, and **[0025]**. No new matter has been added thereby.

In view of the above amendments and following remarks, Applicants respectfully request reconsideration and withdrawal of all grounds of rejection and objection and passage of claims 1-35 to allowance in due course.

**1.** Claims 3 and 5 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Applicants respectfully traverse this rejection as applied to the claims, as amended.

Applicants respectfully submit that the angle with respect to the ground and the direction of the airflow are disclosed in the application as filed, at least at FIGS. 1, 2A, and 3, and in the specification at least at paragraphs **[0020]**, **[0021]** and **[0024]**. FIGS. 1 and 3 indicate the direction of the entering airflow A'. The angle β of the guiding surface with respect to the ground engaging surface of the shoe is indicated in FIGS. 2A and 3. As described in paragraph **[0021]**, "*In one embodiment, angle β is substantially parallel to the direction of motion and to the passing air after push-off. Push-off occurs when the trailing foot is quickly brought forward during walking or running and is the phase of the greatest velocity relative to the surrounding air (see FIG. 3 for a view of the shoe 1 during this push-off phase).*" As FIG. 3 indicates, the angle β (namely, the longitudinal extent of the guiding surface with respect to the ground engaging surface) is substantially parallel with the direction of the entering airflow A' when the shoe is in a position after push-off.

As such, claims 3 and 5 are definite and comply with the requirements of 35 U.S.C. §

112, second paragraph. Applicants, therefore, respectfully request reconsideration and withdrawal of the rejection of claims 3 and 5 under 35 U.S.C. § 112, second paragraph.

**2.** Claims 1-14, 18-20, 22-28, 30-32, and 34-35 are rejected under 35 U.S.C. §102(b) as being anticipated by Brenner. Applicants respectfully traverse this rejection as applied to the claims, as amended.

Briefly, Brenner appears to describe a forward portion of an upper of a shoe comprising a plurality of sections that include a series of substantially parallel slits forming members (11). A strip (10) is passed over and under the members (11) through the slits in such a manner that the members (11) are deflected transversely relative to each other, producing the effect of a twisting of such members (11) and providing an ornamental and attractive appearance for the surface of the forward portion of the upper.

Applicants' amended independent claims 1 and 32 recite at least one guiding surface or vane "***bridging the opening and comprising a leading edge adapted to redirect an airflow into the opening under a movement of the shoe.***" Applicants respectfully submit that Brenner does not disclose such a structure, but rather discloses a series of slits in the material of a section of a shoe producing a number of strips of material. A further strip of material is woven through the strips to produce a decorative pattern on the section. A number of small openings are produced by the woven material, with each strip defining the boundaries of each small opening. As such, Brenner does not teach or suggest a guiding surface or vane "***bridging an opening***," but merely describes a series of strips defining the boundaries of the ornamental holes in the shoe. Brenner further does not teach or suggest a guiding surface or vane "***comprising a leading edge adapted to redirect an airflow into the opening under a movement of the shoe.***"

Because claims 2-14, 18-20, and 34-35 depend, either directly or indirectly, from either independent claim 1 or independent claim 32, and include all of the limitations thereof, Applicants respectfully submit these claims are allowable as well.

Applicants' amended independent claim 22 recites "***an inlet***," "***an outlet***," and "***a ventilation channel in fluid communication with the inlet, wherein the ventilation channel is adapted to direct an airflow into a lower portion of the inlet.***" Applicants respectfully submit that Brenner does not disclose such a structure. The upper taught by Brenner does not include an outlet and a ventilation channel in fluid communication with an inlet, and further does not include a ventilation channel adapted to direct an airflow into the lower portion of an inlet. Rather, Brenner merely teaches a method of cutting a decorative pattern into the upper of a shoe. No particular ventilation system, including an inlet and an outlet, is provided.

Because claims 23-28, 30, and 31 depend, either directly or indirectly, from independent claim 22, and include all of the limitations thereof, Applicants respectfully submit these claims are allowable as well.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-14, 18-20, 22-28, 30-32, and 34-35 under 35 U.S.C. §102(b) based on Brenner.

**3.** Claims 1-14, 18-20, 22-28, 30-32, and 34-35 are rejected under 35 U.S.C. § 102(b) as being anticipated by Turiansky. Applicants respectfully traverse this rejection as applied to the claims, as amended.

Briefly, Turiansky appears to describe a shoe upper including a number of outer strips (1), cross strips (2), and a backing (3). The backing is cut to provide apertures (4). The outer strips

(1), cross strips (2), and the backing (3) are firmly held together by stitching (5). The outer strips (1) and cross strips (2) can be diagonally assembled, or cross at right angles.

Applicants' amended independent claims 1 and 32 recite at least one guiding surface or vane "***bridging the opening and comprising a leading edge adapted to redirect an airflow into the opening under a movement of the shoe***." Applicants respectfully submit that Turiansky does not disclose such a structure, but rather merely discloses an upper for a shoe created from a number of crossing strips of material, with the strips defining a series of small openings. As such, Turiansky does not teach or suggest a guiding surface or vane "***bridging an opening***." Turiansky further does not teach or suggest a guiding surface or vane "***comprising a leading edge adapted to redirect an airflow into the opening under a movement of the shoe***." Rather, Turiansky merely teaches a mesh of strips of material producing a flat permeable surface for the shoe.

Because claims 2-14, 18-20, and 34-35 depend, either directly or indirectly, from either independent claim 1 or independent claim 32, and include all of the limitations thereof, Applicants respectfully submit these claims are allowable as well.

Applicants' amended independent claim 22 recites "***an inlet***," "***an outlet***," and "***a ventilation channel in fluid communication with the inlet, wherein the ventilation channel is adapted to direct an airflow into a lower portion of the inlet***." Applicants respectfully submit that Turiansky does not disclose such a structure. The upper taught by Turiansky does not include an outlet and a ventilation channel in fluid communication with an inlet, and further does not include a ventilation channel adapted to direct an airflow into the lower portion of an inlet. Rather, Turiansky merely appears to teach a method of manufacturing a shoe upper, with a

decorative pattern, from a number of strips of material, wherein the mesh of strips of material produce a flat permeable surface for the shoe. No particular ventilation system, including an inlet and an outlet, is provided.

Because claims 23-28, 30, and 31 depend, either directly or indirectly, from independent claim 22, and include all of the limitations thereof, Applicants respectfully submit these claims are allowable as well.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-14, 18-20, 22-28, 30-32, and 34-35 under 35 U.S.C. §102(b) based on Turiansky.

**4.** Claims 1-13, 18-20, 22-28, 30-32, and 34-35 are rejected under 35 U.S.C. § 102(b) as being anticipated by Hsing. Applicants respectfully traverse this rejection as applied to the claims, as amended.

Briefly, Hsing appears to describe a roller skate shoe including a liner (1) and an outer shoe (2). The liner (1) is composed of a soft material and is made to correspond to the shape of a human foot, and can include a multiplicity of air vents (11) in order to achieve moisture and temperature functions. The outer shoe (2) is made from rigid plastic or rubber and can include ankle guards (211) and cuneiform bone protectors (23) to serve as protection for the ankle and cuneiform bone of a wearer. The ankle guards (211) and cuneiform bone protectors (23) can include a multitude of air vents to provide ventilation.

Applicants' amended independent claims 1 and 32 recite at least one guiding surface or vane "***bridging the opening and comprising a leading edge adapted to redirect an airflow into the opening under a movement of the shoe.***" Applicants respectfully submit that Hsing does not

disclose such a structure, but rather merely discloses a protection element including a number of openings to provide ventilation. The ankle guard (211) of Hsing may possibly appear, in FIG. 1, to include raised portions between each air vent, but the specification is silent on the form or function of these surfaces. However, these portions do not bridge an opening, but are merely attached next to an opening. As such, Hsing does not teach or suggest a guiding surface or vane "***bridging an opening***." Hsing further does not teach or suggest a guiding surface or vane "***comprising a leading edge adapted to redirect an airflow into the opening under a movement of the shoe***."

Because claims 2-13, 18-20, and 34-35 depend, either directly or indirectly, from either independent claim 1 or independent claim 32, and include all of the limitations thereof, Applicants respectfully submit these claims are allowable as well.

Applicants' amended independent claim 22 recites "***an inlet***," "***an outlet***," and "***a ventilation channel in fluid communication with the inlet, wherein the ventilation channel is adapted to direct an airflow into a lower portion of the inlet***." Applicants respectfully submit that Hsing does not disclose such a structure. The roller skate shoe taught by Hsing does not include an outlet and a ventilation channel in fluid communication with an inlet, and further does not include a ventilation channel adapted to direct an airflow into the lower portion of an inlet. Rather, Hsing merely appears to teach a roller skate including protection for the ankle bone and cuneiform bone, wherein these protection elements include holes to allow ventilation of these regions. No particular ventilation system, including an inlet and an outlet, is provided.

Because claims 23-28, 30, and 31 depend, either directly or indirectly, from independent claim 22, and include all of the limitations thereof, Applicants respectfully submit these claims

are allowable as well.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-13, 18-20, 22-28, 30-32, and 34-35 under 35 U.S.C. §102(b) based on Hsing.

**5.** Claims 1-13 and 18-35 are rejected under 35 U.S.C. § 102(e) as being anticipated by Shikhashvili. Applicants respectfully traverse this rejection as applied to the claims, as amended.

Briefly, Shikhashvili appears to describe a water shoe including swimming elements. The shoe includes a sole (1), an upper (4) with a perforated side wall (7) with outlet holes (6), and a number of angle shaped fins (3). The fins (3) are motionlessly fixed on the upper body (2) of the swimming shoe to provide a promotional force during swimming. The perforated side wall (7) with outlet holes (6), along with holes in the sole (1), allow water and sand to drain from the shoe.

Applicants' amended independent claims 1 and 32 recite at least one guiding surface or vane "***bridging the opening and comprising a leading edge adapted to redirect an airflow into the opening under a movement of the shoe***." Applicants respectfully submit that Shikhashvili does not disclose such a structure, but rather merely discloses a shoe including fins fixed on the upper on regions of the upper next to outlet holes. The fins are configured to provide stability and force to a swimmer, while the outlet holes are configured to allow water and sand to flow out of the shoe. As such, Shikhashvili does not teach or suggest a guiding surface or vane "***bridging an opening***." Shikhashvili further does not teach or suggest a guiding surface or vane "***comprising a leading edge adapted to redirect an airflow into the opening under a movement of the shoe***." Rather, Shikhashvili merely teaches a series of fins adapted to provide a

promotional force to a swimmer while immersed in water.

Because claims 2-13, 18-21, and 33-35 depend, either directly or indirectly, from either independent claim 1 or independent claim 32, and include all of the limitations thereof, Applicants respectfully submit these claims are allowable as well.

Applicants' amended independent claim 22 recites "***an inlet***," "***an outlet***," and "***a ventilation channel in fluid communication with the inlet, wherein the ventilation channel is adapted to direct an airflow into a lower portion of the inlet.***" Applicants respectfully submit that Shikhashvili does not disclose such a structure. The water shoe taught by Shikhashvili does not include an outlet and a ventilation channel in fluid communication with an inlet, and further does not include a ventilation channel adapted to direct an airflow into the lower portion of an inlet. Rather, Shikhashvili teaches a series of outlet holes to allow water and sand to drain from the shoe. Shikhashvili does not teach either a ventilation channel or inlet, and nothing in Shikhashvili is adapted to direct an airflow in any manner, the shoe and fins rather being adapted to provide a promotional force to a swimmer while immersed in water. No particular ventilation system, including an inlet and an outlet, is provided.

Because claims 23-31 depend, either directly or indirectly, from independent claim 22, and include all of the limitations thereof, Applicants respectfully submit these claims are allowable as well.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-13 and 18-35 under 35 U.S.C. §102(b) based on Shikhashvili.

**6.** Claims 7 and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over any of the following: Shikhashvili, Hsing, Turiansky, or Brenner. Applicants respectfully traverse this

rejection as applied to the claims, as amended.

As described above, Shikhashvili, Hsing, Turiansky, and Brenner all fail to teach or suggest at least one guiding surface or vane "***bridging the opening and comprising a leading edge adapted to redirect an airflow into the opening under a movement of the shoe***," as disclosed in Applicants amended independent claim 1. Because claims 7 and 10 depend indirectly from independent claim 1, and include all of the limitations thereof, Applicants respectfully submit these claims are allowable as well.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 7 and 10 under 35 U.S.C. § 103(a) as being unpatentable over Shikhashvili, Hsing, Turiansky, or Brenner.

**7.** Claims 21 and 29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the references Hsing or Turiansky or Brenner as applied to claims 20 and 28 above, and further in view of Goldzweig. Applicants respectfully traverse this rejection as applied to the claims, as amended.

Briefly, Goldzweig appears to describe a shoe (4) having an outersole (5), an innersole (6) and a sock lining (7). A number of holes or perforations (8) are provided in the sole of the shoe and are bushed by rivets (9). The holes or perforations (8) permit the unobstructed passage of air through the shank of the shoe and into and out of the shoe when the wearer is in motion.

Applicants respectfully submit that the disclosure of Goldzweig fails to cure the deficiencies of Hsing or Turiansky or Brenner with respect to amended independent claim 1. Specifically, Goldzweig fails to teach, suggest, or motivate one skilled in the art to arrive at least

one guiding surface or vane "***bridging the opening and comprising a leading edge adapted to redirect an airflow into the opening under a movement of the shoe***," as disclosed in Applicants amended independent claim 1. Goldzweig does not include a guiding surface or vane at all.

Applicants, therefore, submit that neither Goldzweig nor Hsing, nor Turiansky, nor Brenner, alone or in proper combination, provide the teaching, suggestion, or motivation for one skilled in the art to arrive at Applicants' invention, as recited in independent claim 1. Because claim 21 depends indirectly from independent claim 1, and includes all of the limitations thereof, Applicants respectfully submit that claim 21 is allowable.

Applicants respectfully submit that the disclosure of Goldzweig fails to cure the deficiencies of Hsing, Turiansky, and Brenner with respect to amended independent claim 22. Specifically, Goldzweig fails to teach, suggest, or motivate one skilled in the art to arrive at "***an inlet***," "***an outlet***," and "***a ventilation channel in fluid communication with the inlet, wherein the ventilation channel is adapted to direct an airflow into a lower portion of the inlet***," as disclosed in Applicants amended independent claim 1. Goldzweig fails to teach a ventilation channel in fluid communication with the inlet, and as such fails to teach, suggest, or motivate one skilled in the art to arrive at a ventilation channel adapted to direct an airflow into the lower portion of an inlet.

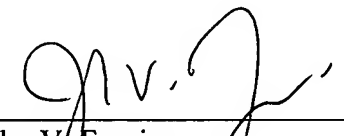
Applicants, therefore, submit that neither Goldzweig nor Hsing, nor Turiansky, nor Brenner, alone or in proper combination, provide the teaching, suggestion, or motivation for one skilled in the art to arrive at Applicants' invention, as recited in independent claim 22. Because claim 29 depends indirectly from independent claim 22, and includes all of the limitations thereof, Applicants respectfully submit that claim 29 is allowable.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 21 and 29 under 35 U.S.C. § 103(a) as being unpatentable over Hsing or Turiansky or Brenner as applied to claims 20 and 28 above, and further in view of Goldzweig.

## CONCLUSION

In view of the foregoing, Applicants respectfully request reconsideration, withdrawal of all grounds of rejection and objection, and allowance of claims 1-35 in due course. The Examiner is invited to contact Applicants' undersigned representative by telephone at the number listed below to discuss any outstanding issues.

Respectfully submitted,



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